

HON'BLE SRI JUSTICE L.NARASIMHA REDDY
WRIT PETITION No. 13693 of 2007

Dated 5th July 2007

Between:

Vasavi Cooperative Urban Bank Ltd.,
Malakpet, Hyderabad.

...Petitioner

and

M/s. Star Function Palace, rep.by its
Proprietor & others

...Respondents

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ORDER:

This writ petition arises as an offshoot of the judgment rendered by a Full Bench of this court, in ***M.BABU RAO v. DEPUTY REGISTRAR/OSD, VASAVI COOPERATIVE BANK LIMITED***^[1], through which it was held that the machinery provided for under the A.P. Cooperative Societies Act (for short "the Act"), cannot be invoked to recover loans due to Cooperative Banks. It was also held that proceedings have to be initiated before the Debt Recovery Tribunal.

The petitioner is a Cooperative Urban Bank. The 1st respondent borrowed a sum of Rs.1,75,00,000/- from the petitioner, and respondents 2 to 6 stood as guarantors. The amount was payable in 60 instalments, up to 30.10.2005. Since default was committed, proceedings under Section 61 of the Act, were initiated, and an award was passed under Section 62, on 23.1.2003. Aggrieved thereby,

respondents 1 to 6 filed C.T.A.No.212 of 2003, before the A.P. Cooperative Tribunal at Hyderabad. Taking note of the judgment rendered by the Full Bench of this court, the Tribunal allowed the CTA, filed against the award passed in the proceedings initiated for recovery of the amount by the bank.

In the recent past, in ***GREATER BOMBAY CO-OP. BANK LTD. v. UNITED YARN TEX.PVT.LTD***^[2], the Hon'ble Supreme Court had reversed the judgment rendered by a Full Bench of this court. In that view of the matter, the petitioner resumed the recovery proceedings. Thereupon, respondents 5 and 6 filed C.T.A.No.47 of 2007, before the Tribunal and filed I.A.No.241 of 2007 for interim orders. In its order dated 21.5.2007, the Tribunal observed that the award passed in favour of the writ petitioner has been set aside by the Tribunal, through its order dated 30.8.2005, and unless the same was reviewed, in the light of the judgment of the Supreme Court, the recovery proceedings cannot be resumed. It is in this context, that the petitioner seeks appropriate directions.

Heard the learned counsel for the petitioner,
Sri R.N.Hemendranath Reddy, learned counsel for respondents 5 and 6 and learned Government Pleader for Cooperation.

C.T.A.No.212 of 2003, preferred by respondents 1 to 6, was not disposed of on merits, but was allowed, on the sole ground that the award passed in favour of the petitioner cannot be sustained, in view of the judgment rendered by a Full Bench of this court. It is no doubt true that the judgment rendered by the Full Bench has since been reversed by the Supreme Court. That by itself does not revive the award. As a formality, the award ought to have been restored, duly

setting aside the order dated 30.8.2005, passed in C.T.A.No.212 of 2003. The result thereof, would have been that C.T.A.No.212 of 2003 is restored. The legal position, referred to above, is not disputed by the learned counsel for the parties.

Hence, the writ petition is allowed, and the order dated 30.8.2005, passed in C.T.A.No.212 of 2003, is set aside. As a result, C.T.A.No.212 of 2003 shall stand restored to the file of the A.P. Cooperative Tribunal at Hyderabad, and it shall be disposed of, on its own merits.

In view of this development, C.T.A.No.47 of 2007 would become infructuous, and the Tribunal shall close it accordingly. The Tribunal shall take up C.T.A.No.212 of 2003, or any Miscellaneous Petition filed in it, to pass any interim orders, in the light of the steps taken by the petitioner to put the mortgaged property to sale.

There shall be no order as to costs.

5th July 2007

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[\[1\]](#) 2005(4) ALT 327

[\[2\]](#) 2007(3) SCJ 415